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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/721,557	11/22/2000	Mark Moriconi	PA1630US	5061

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EXAMINER	
PYZOCHA, MICHAEL J	
ART UNIT	**PAPER NUMBER**
2137	

DATE MAILED: 12/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/721,557	MORICONI ET AL.	
	Examiner	Art Unit	
	Michael Pyzocha	2137	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *23 November 2005*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *57,58,63,64,72,73,81,82 and 90-95* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *57,58,63,64,72,73,81,82 and 90-95* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

1. Claims 57-58, 63-64, 72-73, 81-82 and 90-95 are pending.

2. Amendment filed 11/23/2005 has been received and considered.

Claim Rejections - 35 USC § 112

3. The rejections under the second paragraph of 35 U.S.C. 112 have been withdrawn based on the filed amendment.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5. Claims 57, 63, 72, 81, 90, 92, and 94 rejected under 35 U.S.C. 103(a) as being unpatentable over Luckenbaugh (US 5991877) in view of Arnold et al (US 6466947).

As per claims 57, 63, 72, and 81, Luckenbaugh discloses a policy manager for managing a security policy which includes a plurality of rules customizable to the client and an application guard for managing access to securable components including at

least one application as specified by the security policy (see column 4 line 58 through column 5 line 5 and the abstract).

Luckenbaugh fails to disclose distributing the policy to clients where the policy is enforced.

However, Arnold et al teaches distributing a policy to clients where the policy is enforced (see column 12 lines 18-29).

At the time of the invention it would have been obvious to a person of ordinary skill in the art to use Arnold et al's policy distribution and enforcement in the Luckenbaugh system.

Motivation to do so would have been to update a policy (see column 12 lines 18-29).

As per claims 90, 92, and 94 the modified Luckenbaugh and Arnold et al system discloses the application guard further allows for additional customized code to process and evaluate authorization requests based on the additional customized code (see Luckenbaugh column 8 lines 21-40).

6. Claims 58, 64, 73, and 82 are rejected under 35 U.S.C. 103(a) as being unpatentable over the modified Luckenbaugh and Arnold et al system.

As per claims 58, 64, 73, and 82, the modified Luckenbaugh and Arnold et al system teaches managing access to portions of applications (see Luckenbaugh column 4 line 58 through column 5

line 5 and the abstract), but fails to disclose these portions being functions.

However, Official Notice is taken that at the time of the invention it would have been obvious to one of ordinary skill in the art for the portions of the modified Luckenbaugh and Arnold et al system's application to be functions.

Motivation to do so would have been to that functions are self-contained software routines that perform a specific task.

7. Claims 91, 93, and 95 are rejected under 35 U.S.C. 103(a) as being unpatentable over the modified Luckenbaugh and Arnold et al system as applied to claims 90, 92, and 94 above, and further in view of Balassanian (US 6324685).

As claims 91, 93, and 95, the modified Luckenbaugh and Arnold et al system fails to disclose the use of a global policy specifying access privileges.

However, Balassanian teaches such a global policy (see column 5 lines 54-65).

At the time of the invention it would have been obvious to a person of ordinary skill in the art to use Balassanian's global policy as the modified Luckenbaugh and Arnold et al system's policy.

Motivation to do so would have been that a uniform security policy could be implemented from a single machine (see Balassanian column 5 lines 54-65).

Double Patenting

8. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., In re Berg, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); In re Goodman, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); In re Longi, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); In re Van Ornum, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); In re Vogel, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and In re Thorington, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

9. Claims 57-58, 63-64, 72-73, 81-82 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1, 26 and 28 of U.S. Patent No.

6941472. Although the conflicting claims are not identical, they are not patentably distinct from each other because a later patent claim is not patentably distinct from an earlier patent claim if the later claim is obvious over, or anticipated by, the earlier claim. In re Longi, 759 F.2d at 896, 225 USPQ at 651 (affirming a holding of obviousness-type double patenting because the claims at issue were obvious over claims in four prior art patents); In re Berg, 140 F.3d at 1437, 46 USPQ2d at 1233 (Fed. Cir. 1998) (affirming a holding of obviousness-type double patenting where a patent application claim to a genus is anticipated by a patent claim to a species within that genus). ELI LILLY AND COMPANY v BARR LABORATORIES, INC., United States Court of Appeals for the Federal Circuit, ON PETITION FOR REHEARING EN BANC (DECIDED: May 30, 2001).

10. Claims 90-95 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1, 26, and 28 of U.S. Patent No. 6941472 in view of Luckenbaugh and Balassanian.

As per claims 90, 92, and 94 the patented application fails to disclose the application guard further allows for additional customized code to process and evaluate authorization requests based on the additional customized code. However, Luckenbaugh teaches this limitation (see column 8 lines 21-40).

At the time of the invention it would have been obvious to person of ordinary skill in the art to use Luckenbaugh's authorization with the copending application.

Motivation to do so would have been to only allow authorized users to access information.

As claims 91, 93, and 95, the patented application in view of Luckenbaugh fails to disclose the use of a global policy specifying access privileges.

However, Balassanian teaches such a global policy (see column 5 lines 54-65).

At the time of the invention it would have been obvious to a person of ordinary skill in the art to use Balassanian's global policy as Luckenbaugh's policy.

Motivation to do so would have been that a uniform security policy could be implemented from a single machine (see Balassanian column 5 lines 54-65).

Response to Arguments

11. Applicant's arguments with respect to claims 57-58, 63-64, 72-73, 81-82 and 90-95 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

12. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL.** See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Hardy et al (US 6073242) teaches distributing a policy and Bahr (US 6029246) teaches distributing and enforcing a policy.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael

Pyzocha whose telephone number is (571) 272-3875. The examiner can normally be reached on 7:00am - 4:30pm first Fridays of the bi-week off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Emmanuel Moise can be reached on (571) 272-3865. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MJP

EMMANUEL L. MOISE
SUPERVISORY PATENT EXAMINER